

REMARKS

Claims 1-3, 5-10, and 12-17 are pending and under current examination. Applicants have amended claims 1, 9, 10, 12, 16, and 17. Support for these amendments may be found in the specification at, for example, paragraphs [0119-0125], [0127-0135], and Figs. 14-17.

In the Office Action, the Examiner took the following actions:

- (1) rejected claims 1-3, 5-7, 9, 10, and 12-17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0126994 ("*Gunji*") in view of U.S. Patent App. Pub. No. 2003/0228133 ("*Nakajima*"), and further in view of U.S. Patent App. Pub. No. 2002/0145959 ("*Tsukihashi*"); and
- (2) rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over *Gunji* in view of *Nakajima* and *Tsukihashi*, and further in view of U.S. Patent No. 6,298,173 ("*Lopresti*").

Applicants respectfully traverse the rejections in light of the foregoing amendments and the following remarks.

Rejection of Claims 1-3, 5-7, 9, 10, and 12-17 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 1-3, 5-7, 9, 10, and 12-17 under 35 U.S.C. § 103(a) as being unpatentable over *Gunji* in view of *Nakajima*, and further in view of *Tsukihashi*.

The Office Action has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S.

398, 82 USPQ2d 1385 (2007). In particular, the Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because the Office Action has not properly interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

Claim 1, as amended, recites a combination including:

[a] recording control means is configured to:

control storing of moving images data in a first buffer and
storing of encoded images data in a second buffer;

determine an amount of moving images data stored in the
first buffer;

control recording of moving images data in a first contiguous
area of the data recording medium when the amount
of moving images data stored in the first buffer is no
less than a first predetermined threshold, wherein the
recording of the moving images data in the first
contiguous area is in parallel to the storing of encoded
images data in the second buffer;

after the moving images data recorded in the first contiguous
area reaches a predetermined limit associated with
the first contiguous area, stop the recording of the
moving images data in the first contiguous area and
determine an amount of encoded images data stored
in the second buffer; and

control recording of encoded images data in a second

contiguous area of the data recording medium when

the amount of encoded images data stored in the

second buffer is no less than a second predetermined

threshold, wherein the recording of the encoded

images data in the second contiguous area is in

parallel to the storing of moving images data in the

first buffer.

(Emphases added.)

Gunji, *Nakajima*, and *Tsukihashi*, taken either alone or in combination, fail to teach or suggest at least these claim elements.

In the Office Action, the Examiner acknowledged that *Gunji* fails to teach the above-quoted elements prior to the amendments to claim 1. See Office Action, page 4.

In addition, *Gunji* also fails to teach or suggest Applicants' claimed "control recording of moving images data in a first contiguous area of the data recording medium when the amount of moving images data stored in the first buffer is no less than a first predetermined threshold, wherein the recording of the moving images data in the first contiguous area is in parallel to the storing of encoded images data in the second buffer" and "control recording of encoded images data in a second contiguous area of the data recording medium when the amount of encoded images data stored in the second buffer is no less than a second predetermined threshold, wherein the recording of the encoded images data in the second contiguous area is in parallel to the storing of

moving images data in the first buffer,” as recited in the amended claim 1 (emphases added).

Nakajima does not cure the deficiencies of *Gunji*. For example, *Nakajima* discloses a recorder which “produces a thumbnail image showing well the characteristic of a moving image even if the moving image was subject[] to an effect process.” *Nakajima*, paragraph [0014]. However, in *Nakajima*’s recorder, “[a]s the photographing button included in the operation switch 105 is again activated, recording [of moving image] is terminated.” *Nakajima*, paragraph [0039] (emphasis added). Thereafter, “[u]pon instruction of [] recording termination, CPU 111 instructs I/F 110 to stop recording moving image data, and outputs thumbnail image data stored in the image memory 104 to the moving image coding unit 108 ... and writes it onto the hard disc (HDD) 109.” *Id.* Therefore, *Nakajima*’s recorder writes thumbnail data to the hard disc only after the termination or stopping of recording of moving images. That is, no moving images are being recorded or stored into the image memory 104 while the thumbnail data are being written onto the hard disc 109. Therefore, *Nakajima* also fails to teach or suggest Applicants’ claimed “control recording of moving images data in a first contiguous area of the data recording medium when the amount of moving images data stored in the first buffer is no less than a first predetermined threshold, wherein the recording of the moving images data in the first contiguous area is in parallel to the storing of encoded images data in the second buffer” and “control recording of encoded images data in a second contiguous area of the data recording medium when the amount of encoded images data stored in the second buffer is no less than a second predetermined threshold, wherein the recording of the encoded images data in the

second contiguous area is in parallel to the storing of moving images data in the first buffer,” as recited in the amended claim 1 (emphases added).

Tsukihashi fails to cure the deficiencies of *Gunji* and *Nakajima*. Indeed, *Tsukihashi* merely discloses a buffer RAM 13 (see Fig. 1) which reserves a certain amount of data space during recording to prevent overflow. See paragraph [0058]. However, *Tsukihashi* does not teach the manner in which moving images data and encoded images data are recorded as those recited in claim 1.

Thus, the Office Action has not properly ascertained the differences between the prior art and the claimed invention. In view of the reasoning presented above, Applicants therefore submit that independent claim 1 is not obvious over *Gunji*, *Nakajima*, and *Tsukihashi*, whether taken alone or in any combination. Claim 1 is therefore allowable. Claims 9, 10, 12, 16, and 17, while of different scope, contain recitations similar to claim 1, and are also allowable. Dependent claims 2-3, 5-7, and 13-15 are allowable at least by virtue of their respective dependence from allowable independent claim 1 or 12, and because they recite additional features not taught or suggested by the cited references. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection.

Rejection of Claim 8 under 35 U.S.C. § 103(a)

Applicants request reconsideration and withdrawal of the rejection of claim 8 under 35 U.S.C. § 103(a) as being unpatentable over *Gunji* in view of *Nakajima* and *Tsukihashi*, and further in view of *Lopresti*.

As discussed above, *Gunji*, *Nakajima*, and *Tsukihashi*, taken either alone or in combination, fail to teach or suggest the above-quoted claim elements in claim 1.

Lopresti does not cure the deficiencies of *Gunji*, *Nakajima*, and *Tsukihashi*. For example, *Lopresti* discloses “a method of managing storage in a document image database using document analysis to partition documents into logical regions.” *Lopresti*, Abstract. However, *Lopresti* also does not disclose or suggest Applicants’ claimed “control recording of moving images data in a first contiguous area of the data recording medium when the amount of moving images data stored in the first buffer is no less than a first predetermined threshold, wherein the recording of the moving images data in the first contiguous area is in parallel to the storing of encoded images data in the second buffer” and “control recording of encoded images data in a second contiguous area of the data recording medium when the amount of encoded images data stored in the second buffer is no less than a second predetermined threshold, wherein the recording of the encoded images data in the second contiguous area is in parallel to the storing of moving images data in the first buffer,” as recited in the amended claim 1 (emphases added).

Thus, the Office Action has not properly ascertained the differences between the prior art and the claimed invention. In view of the reasoning presented above, Applicants therefore submit that independent claim 1 is also not obvious over *Gunji*, *Nakajima*, *Tsukihashi*, and *Lopresti*, whether taken alone or in any combination. Independent claim 1 should therefore be allowable. Therefore, dependent claim 8 is allowable at least by virtue of its dependence from allowable independent claim 1, and because it recites additional features not taught or suggested by the cited references. Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection of claim 8.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application, withdrawal of the claim rejections, and the timely allowance of the pending claims.

The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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